



Guidance

TPWD Coordination Under the 2021 Memorandum of Understanding

This guidance document will be used to standardize implementation of the 2021 [Memorandum of Understanding \(MOU\) with the Texas Parks and Wildlife Department \(TPWD\)](#) for the review and coordination of transportation projects codified under Title 43, Texas Administrative Code, Part 1, Chapter 2, Subchapter G, §§2.201-2.207. The 2021 MOU with TPWD is effective as of September 1, 2021 and applies to projects with an environmental documentation classification of environmental assessment (EA) or environmental impact statement (EIS) coordinated on or after that date.

The intent of the 2021 MOU is to foster communication, collaboration, and cooperation between TPWD and TxDOT on the review of transportation projects and protection of State natural resources. In accordance with the 2021 MOU, TxDOT shall coordinate with TPWD on federal and state transportation projects that require an EA or EIS. Projects that do not require an EA or EIS may be coordinated with TPWD at each district's discretion.

For projects that require an EA or EIS, the process below describes an initial collaborative review phase followed by the coordination, review, and comment on the draft environmental document. For projects that do not require an EA or EIS, but are being coordinated with TPWD at the district's discretion, follow the instructions for the collaborative review only.

1.0 Initial Collaborative Review Phase for an EA or EIS Project, or Collaborative Review for a CE Project

The Initial Collaborative Review Phase for an EA or EIS Project or Collaborative Review for a CE Project may include, but is not limited to requests for participation in meetings to provide project-specific technical assistance and communication with TxDOT to provide input as early as possible during project development and scoping as described in 43 TAC §2.204 (a)-(c). This may include, but is not limited to, reviewing information provided by TxDOT, attending field visits, assisting with study design, attending project and public meetings, and using and refining TPWD resources to help identify environmental needs and priorities.

To ensure TxDOT will benefit from any recommendations or information provided by TPWD early in the environmental review process, TxDOT shall gather input from TPWD during an initial collaborative review of all EA and EIS projects. Additionally, for any CE project that is being coordinated with TPWD at the TxDOT district's discretion, TxDOT shall gather input from TPWD during a collaborative review. Collaborative reviews must be completed as soon as possible after district environmental staff have completed the documentation for the "Perform Species Analysis" and "Perform Surface Water Analysis" activities in TxDOT's Environmental Compliance Oversight System (ECOS). All required documentation for these activities must be completed and uploaded into ECOS in accordance with the [Environmental Guide: Volume 2 Activity Instructions](#). Further, the Species Analysis Spreadsheet must be prepared in accordance with ENV's Guidance Preparing a Species Analysis Spreadsheet.

Failure to complete initial collaborative review does not prevent coordination described in section 2.0; however, it is expected that initial collaboration will be completed for all EA and EIS projects. There is no designated timeframe for completion of collaboration as it is meant to be project specific. The intent of initial collaboration is to provide adequate information to TPWD ahead of the draft environmental document. Completing the above-mentioned analyses and providing them to TPWD will help reduce review time and TPWD comment in section 2.0 below.

Based on the species and habitats that may be impacted by the project documented in the Species Analysis Spreadsheet, TxDOT district environmental staff must consider TPWD's non-project specific best management practices (BMPs), and TxDOT standard specifications for the protection and exclusion

of specific taxa, and apply them as appropriate for any project that TxDOT coordinates with TPWD. For any projects that TxDOT coordinates with TPWD, the BMPs and standard specifications for the protection and exclusion of specific taxa that will be applied to a project must be documented using the Documentation of Texas Parks and Wildlife Department Best Management Practices Form.

The Documentation of Texas Parks and Wildlife Department Best Management Practices Form, Species and Surface Water Analysis documentation required per the [Environmental Guide: Volume 2 Activity Instructions](#) and a complete and accurate project description in the WPD I screen in ECOS, will provide the basis for TPWD's collaborative review. Per the MOU, all requests for collaborative review must be sent to WHAB_TxDOT@tpwd.texas.gov or the email account designated by TPWD. This request can only be made by TxDOT staff and cannot be delegated to outside consultants or local sponsors. The email request must include:

- the type of request (initial collaborative review for an EA or EIS project or collaborative review for a CE project)
- CSJ number;
- project name;
- project location;
- file names for relevant documents in ECOS (e.g., species analysis form, species analysis spreadsheet, Texas Natural Diversity Database (TXNDD) documentation, maps, Documentation of Texas Parks and Wildlife Department Best Management Practices Form, etc.); and
- TxDOT district environmental staff contact information.

The request for collaborative review and any response from TPWD must be recorded in ECOS under the coordination under the "Perform Species Analysis" activity. Further, any input received from TPWD during collaborative review must be considered and incorporated into the draft EA or EIS as applicable. TxDOT shall indicate in the draft EA or draft EIS the TPWD-recommended BMPs that will be applied to the project. TxDOT may also include information shared by TPWD during collaborative review. If TPWD recommendations cannot be followed, communication with TPWD to explain the reasoning is recommended. Effective communication during the initial collaborative review phase will ensure effective review of the environmental document and may reduce TPWD comment during the coordination phase.

For CEs, once the collaborative review is completed, there are no further coordination steps. Any commitments made or BMPs that must be applied to the project must be incorporated into appropriate project documentation as applicable, which may include, but is not limited to:

- "Perform Non-Endangered Species Act (ESA) Biology Commitments" Activity (only actions that will be carried-out by district environmental staff)
- general notes;
- Environmental Permits, Issues, and Commitments (EPIC) sheet, and/or;
- elsewhere in plan sets.

2.0 Coordination of Draft Environmental Review Document (EAs and EISs only)

For EAs and EISs, the initial collaborative review phase is followed by coordination of the draft environmental document, as explained below.



Before coordinating the draft EA or EIS with TPWD, district environmental staff shall ensure that any input received from TPWD during initial collaborative review is added to the draft EA or EIS as applicable. This includes the TPWD-recommended BMPs that will be applied to the project.

At or around the same time that a draft EA or draft EIS is made available for public review, but no less than 45 days before TxDOT is authorized to issue an environmental decision, district environmental staff shall email the notice of availability of the EA or EIS to TPWD at WHAB.TxDOT@tpwd.texas.gov. This request can only be made by TxDOT staff and cannot be delegated to outside consultants or local sponsors. The email request must include:

- the type of request (coordination of EA or EIS);
- CSJ number;
- project name;
- project location;
- file names for the draft EA or draft EIS in ECOS; and
- TxDOT district environmental staff contact information.

If TPWD has any information or recommendations to conserve fish and wildlife species and other natural resources it wishes to provide to TxDOT in response to a request for comments, TPWD shall provide them in writing to TxDOT within 45 days of the date on which TxDOT submitted the request for comments by email. If TPWD provides any recommendations or information regarding fish and wildlife to TxDOT after the 45-day deadline, then TxDOT shall consider such recommendations or information to the extent practicable.

TxDOT must respond as outlined in [Parks and Wildlife Code §12.0011\(c\)](#). The response must include for each recommendation or comment provided by TPWD:

- a description of any modification made to the proposed project, fish and wildlife resource decision, or water flow schedule resulting from the recommendation or comment;
- any other disposition of the recommendation or comment; and
- as applicable, any reason the TxDOT disagreed with or did not act on or incorporate the recommendation or comment.

All responses to TPWD comments should be incorporated in the comment response matrix to public comments to the environmental document.

The correspondence with TPWD must be uploaded to ECOS per the [Environmental Guide: Volume 2 Activity Instructions](#) (see “Perform Species Analysis”).

Any commitments made or BMPs that will be applied to the project must be documented in the Final EA or EIS. They must also be incorporated into appropriate project documentation as applicable, which may include, but is not limited to:

- “Perform Non-Endangered Species Act (ESA) Biology Commitments” Activity (only actions that will be carried-out by district environmental staff)
- general notes;
- Environmental Permits, Issues, and Commitments (EPIC) sheet, and/or;
- elsewhere in plan sets

3.0 Re-evaluation/Re-coordination

Reevaluations of categorical exclusions (CE) level projects with new or increased impacts coordinated under the 2013 MOU may be re-coordinated at TxDOT's discretion. If an EA or EIS project was previously coordinated with TPWD under either the 2013 or 2021 MOU, TxDOT shall coordinate the reevaluation with TPWD when any of the following apply:

- New impacts not included in previous coordination or increase in impacts from previous coordination to terrestrial and aquatic state-listed species or their habitat as determined by a qualified biologist or rare plant communities with a record in the Texas Natural Diversity Database (TXNDD) or any state rank or rank range that includes a 1, 2, or 3.
- New or increased impacts to riparian habitat or water resources.
- Change to commitments made during previous coordination, including BMPs.

Projects requiring re-coordination must re-coordinate as soon as possible after district environmental staff have filled-out Sections I., II., and III. of ENV's Reevaluation Form and uploaded the partially completed form to ECOS, and completed revised documentation for new "Perform Species Analysis" and "Perform Surface Water Analysis" activities for the re-evaluation in ECOS (if applicable). The request for re-coordination must be sent to WHAB_TxDOT@tpwd.texas.gov. This request can only be made by TxDOT staff and cannot be delegated to outside consultants or local sponsors. The email request must include:

- the type of request (re-coordination);
- CSJ number;
- project name;
- project location;
- file names for relevant documents in ECOS (e.g., partially completed reevaluation form describing changes to the project triggering re-coordination, species analysis form, species analysis spreadsheet, Texas Natural Diversity Database (TXNDD) documentation, maps, etc.), and
- TxDOT district environmental staff contact information

If TPWD has any information or recommendations to conserve fish and wildlife species and other natural resources it wishes to provide to TxDOT in response to a request for comments, TPWD will provide them in writing to TxDOT within 45 days of the date on which TxDOT submitted the request for comments by email. If TPWD provides any recommendations or information regarding fish and wildlife to TxDOT after the 45-day deadline, then TxDOT will consider such recommendations or information to the extent practicable.

TxDOT must respond as outlined in [Parks and Wildlife Code §12.0011\(c\)](#). The response must include for each recommendation or comment provided by TPWD:

- a description of any modification made to the proposed project, fish and wildlife resource decision, or water flow schedule resulting from the recommendation or comment;
- any other disposition of the recommendation or comment; and
- as applicable, any reason the TxDOT disagreed with or did not act on or incorporate the recommendation or comment.

The correspondence with TPWD must be uploaded to ECOS per the [Environmental Guide: Volume 2 Activity Instructions](#) (see "Perform Species Analysis").

Any commitments made or BMPs resulting from re-coordination that must be applied to the project must be incorporated into appropriate project documentation as applicable, which may include, but is not limited to:

- “Perform Non-Endangered Species Act (ESA) Biology Commitments” Activity (only actions that will be carried-out by district environmental staff)
- general notes;
- Environmental Permits, Issues, and Commitments (EPIC) sheet, and/or;
- elsewhere in plan sets.

Appendix A: Revision History

The following table shows the revision history for this interim guidance document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
September 2021	Version 1 was released.